

**REMARKS**

Claims 1, 2 and 4-7 remain pending in the application, claims 3 and 8-25 having been canceled.

**Notice of Non-Compliant Amendment**

The claims have been carefully reviewed and are amended herein to address the indicated lack of antecedent basis problems with the claims. The Applicants respectfully request that the objection to the claims be withdrawn.

**Title**

The Examiner objected to the title as allegedly being non-descriptive to what is being claimed.

The title is amended herein to be more descriptive. The Applicants respectfully request that the objection to the title be withdrawn.

**35 USC 101 Rejection of Claims 1-9, 19 and 20**

Claims 3, 8, 9, 19 and 20 are canceled herein, thereby mooted the rejection with respect to those claims.

The Office Action alleged that claims 1-9 are directed toward non-statutory subject matter as being directed to "software or program per se". The Applicants respectfully disagree.

The Examiner is respectfully directed toward the recent Federal Circuit decision of *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. Oct. 30, 2008). The *Bilski* majority characterizes its machine-transformation test as "the governing test for determining patent eligibility of a process under section 101." Under this test, a claim is patent-eligible if (and as applied in *Bilski* apparently only if): (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing." As explained by the Court, the test serves as a proxy for assessing the more fundamental concern – ensuring that the claim does not seek to impermissibly "preempt the use of a fundamental principle." Applying *Bilski* to the instant case, claims 1, 2 and 4-7 are tied to the particular

machine or apparatus of the claimed "first physical server", a "second physical server", and a "client device". See also *In re Comiskey*, 499 F.3d 1365, 84 USPQ2d 1670

Applicants respectfully request that the 35 USC 101 rejection of claims 1, 2 and 4-7 be withdrawn.

**Claims 1-9, 19 and 20 under 2<sup>nd</sup> paragraph of 35 U.S.C. §112**

Claims 1-9, 19 and 20 were rejected as allegedly being indefinite under 35 USC 112, second paragraph. Claims 3, 7, 8, 19 and 20 are canceled herein, thereby mooting the rejection of those claims.

Claims 1, 2 and 4-7 have been carefully reviewed and amended as appropriate, with all of the Examiner rejections of those claims having been addressed. The Applicants respectfully request that the 35 USC 112, 2<sup>nd</sup> paragraph rejection of claims 1, 2 and 4-7 now be withdrawn.

**Claims 1-9, 19 and 20 over Andrews**

Claims 1-9, 19 and 20 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent Application Pub. No. 2002/0038360 to Andrews et al. ("Andrews") and/or U.S. Patent No. 7,020,698 to Andrews et al. ("Andrews Patent"). Claims 3, 8, 9, 19 and 20 are canceled herein, thereby mooting the rejection in that regard. With respect to claims 1, 2 and 4-7, the Applicants respectfully traverse the rejection.

Andrews and Andrews Patent appear to contain the same disclosure, with Andrews Patent being the issued patent of the published Andrews application. To avoid redundancy and to be consistent with the Examiner's rejection that references Andrews, Applicants herein reference only Andrews.

Claims 1, 2 and 4-7 recite, *inter alia*, **determining** with a service-chaining module of a first physical server an identity of a second physical server within a distributed environment that stores a requested application program.

The Examiner alleges that Andrews discloses such features in paragraph [0032]. (see Office Action, page 4) The Applicants respectfully disagree.

Andrews teaches at paragraph [0032]:

[0032] It is assumed that clients make domain name (DNS) requests to local DN servers. FIG. 1 shows a local DN server 54 receiving a DNS request from a client 52. The local DN server 54 is shown forwarding the client request to a redirection server 56. The redirection server 56 responds to the client request by returning to the client 52 the IP address of a content server 54a-e in the network determined to be a preferred content server.

To summarize, Andrews' DNS server receives a domain name request from a client. The DNS server forwards the domain name request to a redirection server, which returns the domain name of the content server back to the client, permitting the client to itself then request service in another request for service, this time directed to the content server.

The present application appreciates that failure of an initial client device request is very frustrating to a user of a client device. As taught by Andrews, the client device is required to send another request, this time to the returned address of the content server.

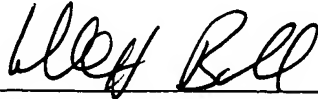
The present invention overcomes the conventional requirement to send two requests for service from the same client device by providing transmission in a message object the initial request for the application program, from a first physical server initially thought to contain the application program to a second physical server that actually stores the requested application program. This inventive service-chaining eliminates the otherwise conventional frustration a user of a client device might otherwise experience.

Accordingly, for at least all the above reasons, claims 1, 2 and 4-7 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

**Conclusion**

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "W. H. Bollman", written over a horizontal line.

William H. Bollman  
Reg. No.: 36,457  
Tel. (202) 261-1020  
Fax. (202) 887-0336

**MANELLI DENISON & SELTER PLLC**

2000 M Street, NW 7<sup>TH</sup> Floor  
Washington, DC 20036-3307  
TEL. (202) 261-1020  
FAX. (202) 887-0336